

STATE OF SOUTH CAROLINA)	BEFORE THE CHIEF PROCUREMENT OFFICER
COUNTY OF RICHLAND)	
)	DECISION
In the Matter of Protest of:)	
)	CASE No. 2010 – 139
)	
Appraise Sell, LLC)	
)	
)	
Materials Management Office)	POSTING DATE: October 26, 2010
IFB No. 5400002218)	
On-Line Auction Services -)	MAILING DATE: October 26, 2010
Unclaimed Property)	
<u>State Treasurer's Office</u>)	

This matter is before the Chief Procurement Officer (CPO) pursuant to a letter of protest from Appraise Sell, LLC (Appraise Sell), which was filed on October 5, 2010. With this invitation for bids (IFB), the Materials Management Office (MMO) attempts to procure on-line auction services for unclaimed property on behalf of the State Treasurer's Office. In its letter, Appraise Sell protested MMO's statement of award to Lone Star Auctioneers, Inc. (Lone Star). Specifically, Appraise Sell challenged MMO's determination that one of Appraise Sell's two bids was untimely and therefore was not considered.

NATURE OF PROTEST

The letter of protest is attached and incorporated herein by reference.

FINDINGS OF FACT

The following dates are relevant to the protest:

1. On September 2, 2010, MMO published the solicitation. [Exhibit 1]
2. On September 13, 2010, MMO issued Amendment # 1, which was the only amendment to the solicitation. [Exhibit 2]
3. On September 22, 2010, MMO opened the bids received.

4. On September 28, 2010, MMO issued a statement of award to Lone Star for an estimated value of \$4,200. [Exhibit 3]
5. On October 5, 2010, Appraise Sell submitted its protest to the CPO.

CONCLUSIONS OF LAW

The South Carolina Consolidated Procurement Code (Code) grants actual bidders the right to protest awards made by the State. Section 11-35-4210(1)(b) of the Code reads in relevant part,

Any actual bidder... who is aggrieved in connection with the intended award or award of a contract shall protest to the appropriate chief procurement officer in the manner stated in subsection (2)(b) within ten days of the date award or notification of intent to award, whichever is earlier, is posted in accordance with this code...

However, Section 11-35-4210(1)(d) limits this right by stating, "The rights and remedies granted by...Section 11-35-4410(1)(b) are not available for contracts with an actual or potential value of up to fifty thousand dollars."

In this matter, the statement of award issued by MMO was in the amount of approximately \$4,200.00 [See Exhibit 3.] Since the value of the award is well less than requisite \$50,000, the CPO lacks jurisdiction to hear and decide this protest.

DETERMINATION

For the aforementioned reason, the protest is dismissed.



R. Voight Shealy
Chief Procurement Officer
for Supplies and Services

October 26, 2010

Date

Columbia, S.C.

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised October 2010)

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: www.procurementlaw.sc.gov

FILE BY CLOSE OF BUSINESS: Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

FILING FEE: Pursuant to Proviso 83.1 of the 2010 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of hardship, the party shall submit a notarized affidavit to such effect. If after reviewing the affidavit the panel determines that such hardship exists, the filing fee shall be waived." 2010 S.C. Act No. 291, Part IB, § 83.1. PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, a business must retain a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003).

Skinner, Gail

From: Protest-MMO [Protest-MMO@mmo.sc.gov]
Sent: Tuesday, October 05, 2010 11:04 AM
To: _MMO - Procurement; Shealy, Voight; Skinner, Gail
Subject: FW: Protest: Solicitation Number 5400002218
Attachments: SC-FedEx-ProofOfDelivery-8713-2410-1742.pdf; SC-FedEx-ProofOfDelivery-8713-2410-1753.pdf

From: David Staples[SMTP:DAVIDS@EBIDLOCAL.COM]
Sent: Tuesday, October 05, 2010 11:04:14 AM
To: Covey, Daniel; Protest-MMO
Cc: Lisa Chancellor
Subject: Protest: Solicitation Number 5400002218
Auto forwarded by a Rule

Dear Daniel Covey,

We respectfully request the review of the award of Solicitation Number 5400002218 for auction services for South Carolina. As per the solicitation we submitted 2 bids, each under separate cover as required;
 one for 15% with expenses "ala-carte"
 one for 25% all-inclusive

The 15% bid package was reviewed and deemed non-compliant (since not all-inclusive). The 25% bid package (which IS all-inclusive) was NOT reviewed, as our telephone conversation with you revealed that somehow your records show it as having been received at a time and place other than where the 15% bid package was received, and AFTER the solicitation stated deadline.

We respectfully submit there must be some sort of internal SC error on recording the day / time / and receipt of the bid packages. They were both addressed and delivered by FedEx to the exact same location, **and signed for by SC at the same exact time minute (9:24am), by the exact same front desk/receptionist receiving person.** (Please see the attached pdf files of the FedEx proof of delivery receipts.) We hope you'll agree it's simply not possible for 2 packages to have been delivered to 2 separate locations (or at 2 separate times), yet signed for as received by the same person at the exact same minute.

We respectfully request our 25% all-inclusive bid package be included in the responsive bids, and that the award to Lone Star Auctioneers Inc at 35% be set aside, and our company receive the award at our stated 25% bid level.

Thank you for your attention to this matter.

Sincerely,
 David Staples – Owner / Managing Member
 c. 804-837-1708

cc. Lisa Chancellor

P. David Staples Jr. CAI, CES, ISA

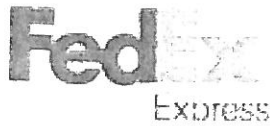
10/5/2010

Asset Advisor, Appraiser, Auctioneer, Consultant, Liquidator, Recycler

Appraise Sell, LLC | 1827 W. Main St. Suite-A | Richmond, VA 23220
804-358-0500 | f: 804.359.2586 | e: info@EbidLocal.com
www.AppraiseSell.com | www.EbidLocal.com

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U.S. Mail: PO Box 727
Memphis, TN 38194-4643
Telephone: 901-369-3600

October 5, 2010

Dear Customer:

The following is the proof-of-delivery for tracking number **871324101742**.

Delivery Information:

Status:	Delivered	Delivered to:	Receptionist/Front Desk
Signed for by:	K.BROWDER	Delivery date:	Sep 22, 2010 09:24
Service type:	Priority Pak		

NO SIGNATURE IS AVAILABLE

FedEx Express proof-of-delivery details appear below; however, no signature is currently available for this shipment. Please check again later for a signature.

Shipping Information:

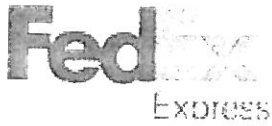
Tracking number:	871324101742	Ship date:	Sep 21, 2010
		Weight:	1.0 lbs/0.5 kg

Recipient:	Shipper:
US	RIC US

Reference	SC ITB BID
------------------	------------

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U.S. Mail: PO Box 727
Memphis, TN 38194-4643
Telephone: 901-369-3600

October 5, 2010

Dear Customer:

The following is the proof-of-delivery for tracking number **871324101753**.

Delivery Information:

Status:	Delivered	Delivered to:	Receptionist/Front Desk
Signed for by:	K.BROWDER	Delivery date:	Sep 22, 2010 09:24
Service type:	Priority Pak		

NO SIGNATURE IS AVAILABLE

FedEx Express proof-of-delivery details appear below; however, no signature is currently available for this shipment. Please check again later for a signature.

Shipping Information:

Tracking number:	871324101753	Ship date:	Sep 21, 2010
		Weight:	1.0 lbs/0.5 kg

Recipient:	Shipper:
US	RIC US

Reference	SC IPB BID
------------------	------------

Thank you for choosing FedEx Express.

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STATE OF SOUTH CAROLINA
MATERIALS MANAGEMENT OFFICE
CAPITAL CENTER
1201 MAIN STREET, SUITE 600
COLUMBIA SC 29201

Statement of Award

Posting Date: September 28, 2010

Solicitation: 5400002218
Description: Auction Services - UPP
Agency: SC State Treasurers Office

The State awards the contract(s) noted below. This document is the final Statement of Award, effective 09/28/2010. Unless otherwise provided in the solicitation, the final statement of award serves as acceptance of your offer.

Contractor should not perform work on or incur any costs associated with the contract prior to the effective date of the contract. Contractor should not perform any work prior to the receipt of a purchase order from the using governmental unit. The State assumes no liability for any expenses incurred prior to the effective date of the contract and issuance of a purchase order.

Contract Number: 4400002897
Awarded To: LONE STAR AUCTIONEERS INC
4629 MARK IV PARKWAY
FORT WORTH TX 76106

Total Potential Value: \$ 4,200.00*
Estimated amount - actual amount may be more or less depending on
sale price of items to be auctioned.

Maximum Contract Period: September 28, 2010 through December 06, 2010

Item	Description	% Fee
00001	Auction Services for UPP	35% of gross sales



Procurement Officer
Daniel W. Covey